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PATENTS

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re application of:

Woodson C. Lewis

Serial No.: 09/527,927

Filed: March 17, 2000

For: ELECTRONIC TICKETING AND VALIDATION SYSTEM AND METHOD

Group No.: 2166

Examiner: Hafiz

Hon. Commissioner of Patents and Trademarks
Washington, D.C. 20231

CERTIFICATE OF MAILING

I hereby certify that this Response To Office Action, along with any document indicated as being enclosed, is being deposited in the United States Postal Service as first class mail in an envelope addressed to: Box AF, Commissioner of Patents and Trademarks, Washington, D.C. 20231 on October 31, 2001.

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RESPONSE TO OFFICE ACTION AFTER FINAL

This is a response to the Office Action dated July 13, 2001, with such time for response being extended up to and including November 13, 2001, by the Request For Extension of Time herein. This application has been made SPECIAL by the decision dated December 6, 2000. Additionally, the Office Action dated July 13, 2001, was made Final by the Examiner.

The previous Office Action dated April 10, 2001, rejected claims 1, 3, 5, and 6 under 35 U.S.C §102(a) as being anticipated by Ticketmaster.com as described in an article entitled "Site to Let Buyers Print Tickets at Home", ("the article"). In responding to this rejection the Applicant submitted a Declaration Of Prior Invention In The United States To Overcome Cited Prior Publication (37 C.F.R. 1.131) ("the Declaration"). The previous Examiner, Joe Parisi, issued another Office Action dated July 13, 2001, in which the Examiner considered the Declaration, but deemed it unpersuasive and insufficient to overcome the prior rejections.

Applicant respectfully requests reconsideration of the previously submitted Declaration and believes that the prior Examiner applied the incorrect standard when considering the Declaration. Rule 131, 37 CFR §1.131, allows an Applicant to overcome a reference by submitting an affidavit or declaration which shows either (1) reduction to practice prior to the effective date of the reference **OR** (2) conception of the invention prior to the effective date of the reference coupled with due diligence from prior to said date to a subsequent reduction to practice or to the filing of the application. At all times in the Declaration, the Applicant was overcoming the article by showing conception coupled with due diligence. Two exhibits were attached to the Declaration to show conception. The first exhibit, Exhibit A, entitled "Electronic Entertainment Services Plan" is an overview of the invention. The second exhibit, Exhibit B, entitled "e.tickets.com Electronic Entertainment Access Systems" is another document that disclosed and explained the invention. Both of these exhibits show conception of the invention prior to the effective date of the reference. The Applicant further showed in the

Declaration due diligence from prior to the effective date of the reference to a subsequent filing of the application.

It is apparent from reviewing the Office Action dated July 13, 2001, that the Examiner was erroneously focusing on the first condition of Rule 131(b), namely reduction to practice prior to the effective date of the reference. In particular, on page 4 in the first paragraph of the Office Action, the Examiner states "The non-published section of Applicant's proposal relied upon is not deemed a **reduction to practice** of the claimed invention for the following reason...". (emphasis added). Further in the same paragraph, the Examiner states "In general, proof of **actual reduction to practice** requires a showing that the apparatus existed and worked for its intended purpose." (emphasis added). Another instance in which the Examiner used the "reduction to practice" standard appears on page 3 in the last paragraph when it was stated "... do not clearly substantiate the **reduction to practice** previous to the prior art." (emphasis added). As indicated above, the Applicant was showing conception prior to the effective date of the publication coupled with due diligence. It does not appear that the Examiner considered the "conception" prong of Rule 131 when reviewing the Declaration.

The Examiner on page 3 further stated in the fourth paragraph that:

> "It is noted that by its very nature, while a proposal may in rare circumstances fully disclose an invention, it frequently provides a basis for funding for further research leading to the reduction to practice of an invention. The present case appears to be no exception to this heuristic." (emphasis in original).

The Examiner cites no authority for this position. Additionally, the exhibits submitted with the Declaration are the types of documents contemplated by Rule 131.

It also appears that the Examiner did not read or consider Exhibit B with respect to conception of the invention. A review of Exhibit B shows on page 3 that the invention is described as an Internet based product which allows consumers to select, order, and locally print entertainment event admission tickets from their own PC. It allows users to visit a web site to select their desired event, time and location, order and purchase their tickets, select their seating, and immediately print their tickets at their PC. With the ticket in hand, the user can arrive at the entertainment venue and proceed directly to the point of admission. The ticket is scanned for the system assigned sequence number that appears in a bar code format on the face of their PC printed ticket. Once entry is granted, the system updates the admission record so that duplicate entry (ticket fraud) is not allowed. On page 7 of Exhibit B there is described the ticket having printed thereon the event description, the venue name and location, the event day and time, and, if applicable, the seat selected or assigned. Further, on page 8 of Exhibit B there is disclosed the use of a bar code printed on the face of the ticket that represents a number assigned by the system at the time the ticket is ordered which is unique to that ticket purchase. The bar code is scanned at the point of admission, verified by the system online, and entry is immediately permitted. On page 11 of Exhibit B there is described the capability of downloading and storing a ticket on a hand held 3G device, such as a Palm Pilot. The electronic ticket would then be used to gain admission. It is submitted that Exhibit B clearly shows conception of the invention.

Applicant submits that when the Declaration is reconsidered, it is believed that the article is not a proper prior art reference and the rejection of claims 1, 3, 5, and 6 under §102(a) should be withdrawn. The remainder of the claims has been rejected under 35

U.S.C. §103(a) in view of the article in combination with various other references. In view of the reconsideration of the Declaration, it is again submitted that the article is not a proper prior art reference and that the rejection of the claims under §103(a) should now be withdrawn.

Applicant requests an extension of time of one month, up to and including November 13, 2001, in order to file this response to the Office Action dated July 13, 2001. Enclosed is a check in the amount of $55 as payment for this one month extension of time.

In view of the above remarks, it is again submitted that all of the claims pending in this application are allowable. In the event that this application is for any reason not considered by the Examiner to be in form for allowance, Applicant's counsel requests the Examiner to telephone the undersigned before issuing a further action to discuss any objections the Examiner might have, thereby simplifying and expediting the examination and prosecution process.

Respectfully submitted,

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Enclosure